

SOUTH GIPPSLAND SHIRE COUNCIL

# Community Impact Statement General Local Law 2024



*South Gippsland*  
Shire Council

The following information is provided to the community in respect of the proposed General Local Law 2024.

## Introduction

South Gippsland Shire Council is proposed to make the General Local Law 2024 to replace the current General Local Law 2014.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to Council during the public consultation process required under the *Local Government Act 2020* (the Act).

## Background

Local laws are a form of local regulation that enables councils to make legislative controls that reflect the different circumstances of each municipality. They provide the necessary framework within which to ensure that the actions of an individual or group do not have an adverse impact on the rest of the community. The local law-making power attributed to councils comes from the *Local Government Act 2020*.

The General Local Law 2014 is due to expire on 15 April 2024 and needs to be renewed and updated to incorporate changes in legislation and to reflect current issues within the municipality.

## Objectives and Intended Effect

The objectives and intended effect of the local law are set out in the proposed General Local Law 2024.

The proposed General Local Law 2024 is designed to respond to issues and needs within the municipality. The proposed local law seeks to complement responsibilities and enforcement powers granted to Council under State and Federal legislation and is primarily focused on protecting the amenity of the local area and regulating the use of Council land and assets.

The proposed General Local Law 2024 proposes the following:

- Amendments to existing definitions;
- Insertion of new definitions;
- Amendments to existing clauses;
- Insertion of new clauses; and
- Penalty amounts aligned under the new *Local Government Act 2020*.

# Overview of the Proposed General Local Law 2024

The proposed General Local Law 2024 incorporates a series of changes to language and structure that aim to simplify, modernise, and consolidate it and ensure alignment with State legislation. These changes do not seek to alter the overall intent and rather, are focused on providing clarity.

Additionally, a range of safety and amenity issues were identified during an extensive review, research and consultation process which have resulted in a number of new, proposed clauses and provisions being included in the proposed General Local Law 2024. The proposed General Local Law 2024 also creates a few new offences. These changes are briefly summarised below:

## Summary Main Changes – Proposed General Local Law 2024

| Clause | Title  | Description  |
|--------|--|--|
| 9      | Behaviour in a municipal place.                      | <p><b>Behaviour in a Municipal Place</b></p> <p>Strengthened and expanded provisions to include indecent, insulting, threatening or abusive behaviour and language.</p>  |
| 10     | Damaging or defacing a municipal place.              | <p><b>Damaging or Defacing a Municipal Place</b></p> <p>These clauses have been amended to better protect Council assets by addressing behaviours and activities that damage or deface a municipal place, damage trees or vegetation, and cause obstructions in a municipal place.</p>   |
| 11     | Tree and vegetation protection in a municipal place. |  |
| 12     | Access to a municipal place.                         |  |
| 13     | Obstructions in a municipal place.                   |  |
| 15     | Camping in a municipal place.                        | <p><b>Camping and Temporary Homes</b></p> <p>Strengthened and expanded definition of camping to include a tent, makeshift structure, caravan, mobile home or any other moveable vehicle or relocatable building or structure.</p> <p>Amendments that enable people to camp on all private property for a short period of time, without the need to obtain a permit, subject to conditions outlined in the Camping on Private Property Code of Practice (incorporated document). These conditions are designed to protect the amenity of adjoining land.</p> <p>Ability for South Gippsland Shire Council to exempt persons camping in a municipal place for compassionate reasons.</p> |
| 39     | Camping on private property.                         |  |
| 18     | Commercial filming.                                  | <p><b>Commercial Filming</b></p> <p>New provisions to regulate commercial filming in public places.</p>  |

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| Clause | Title   | Description   |
|--------|---|---|
| 21     | Abandoned, Derelict and Unregistered Vehicles.          | <p><b>Abandoned, Derelict and Unregistered Vehicles</b></p> <p>New provisions to support Authorised Officers to regulate this matter.</p>   |
| 22     | Use of recreational vehicles in a municipal place.      | <p><b>Recreational Vehicles</b></p> <p>Strengthened and expanded definitions of recreational vehicles to include trail bikes, motorcycles and powered vehicles.</p> <p>Other provisions relating to the protection of Council assets enable Council to infringe where recreational vehicles have caused damage to a municipal place.</p> <p>Amendments to provisions that regulate the use of recreational vehicles on private land include:</p> <ul style="list-style-type: none"> <li>• Removed reference to Planning Scheme zones.</li> <li>• Retain minimum land size requirement of 2 hectares.</li> <li>• Exemptions for farming purposes, or if permitted under other regulations.</li> <li>• New sub-clause makes it an offence to use recreational vehicles on private property in a manner that detrimentally affects the amenity of adjoining land.</li> </ul> |
| 38     | Use of recreational vehicles on private property.       |   |
| 26     | Smoke-free areas.                                       | <p><b>Smoke-free Areas</b></p> <p>New provisions that provide Council the ability to declare, by resolution, areas or events to be smoke-free and to infringe individuals who smoke tobacco or e-cigarettes in these areas.</p>   |
| 27     | Roadside trading or performing.                         | <p><b>Trading Activities</b></p> <p>Improved guidance on the requirements to obtain a permit for busking activities, display of goods for sale, outdoor eating facilities, advertising signs, and collections in a municipal place.</p>   |
| 28     | Displaying goods for sale.                              |   |
| 29     | Advertising signs.                                      |   |
| 30     | Use of a municipal place for outdoor eating facilities. |   |
| 31     | Collections   | <p><b>Shopping Trolleys</b></p> <p>New provisions extend the onus for shopping trolleys onto retailers by requiring them to have their trading name clearly marked on the trolley and not leave a trolley in a municipal place.</p> <p>Removed specified streets and locations where it is an offence to leave a trolley and expanded to include all municipal places.</p>  |
| 32     | Shopping trolleys.                                      |   |

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| Clause | Title  | Description   |
|--------|--|---|
| 33     | Unightly and dangerous properties.                                     | <b>Unightly and Dangerous Properties, Dilapidated Buildings</b><br>Strengthened and expanded provisions to address unsightly properties including machinery and vehicle parts, incomplete buildings, dangerous structures, excessive vegetation and shipping containers (unless permitted under the Planning Scheme).<br><br>Introduced new clause 'dilapidated buildings' to protect neighbourhood amenity and safety, including provision to require a person to secure a site. |
| 34     | Dilapidated buildings.   |   |
| 45     | Restrictions on burning in the open air – declared fire danger period. | <b>Open-air Burning</b><br><br>Clarity on the types of material that can and cannot be burnt on private land including not allowing fires to cause offensive emissions. Additional safety and amenity obligations for people burning material on private land including but not limited to buffer zones, supervising and extinguishing fires.<br><br>Introduced requirements for all burns to be registered with the Emergency Services Telecommunication Authority (ESTA).       |
| 46     | Burning of offensive materials.  |   |
| 47     | Restrictions on burning in the open air – private property.            |   |
| 48     | Restrictions on burning in the open air – municipal places.            |   |
| 49     | Use of domestic bins.  | <b>Waste and Recycling</b><br><br>Amended clauses to make it an offence to leave domestic bins in areas that obstruct pedestrian traffic flow, or for extended periods beyond waste collection days.<br><br>Introduced a new clause to regulate hard waste collection including placement of items; and making it an offence to remove or interfere with hard waste placed out for collection.  |
| 50     | Collection and storage of domestic bins.                               |   |
| 51     | Hard waste collection.   |   |
| 52     | Street waste bins.   |   |
| 53     | Trade waste bins (including trade recycling bins).                     |   |
| 54     | Occupation of roads and municipal places.                              | <b>Council Asset Protection</b><br><br>A series of changes specifically designed to better protect Council's assets, particularly when building works take place.   |
| 55     | Council asset protection – building works.                             |   |
| 56     | Damage to Council assets – building works.                             |   |
| 57     | Drains.  |   |
| 58     | Requirement for vehicle crossings.                                     |   |
| 59     | Constructing a vehicle crossing.                                       |   |
| 60     | Vehicular site access.   |   |

# Evaluation of the Proposed General Local Law 2024

| Issue   | Evaluation   |
|---|--|
| Measures of success of the proposed Local Law.    | <p>Council will measure the success of the proposed General Local Law 2024 as follows:</p> <ul style="list-style-type: none"> <li>Recording levels of compliance/non-compliance using inspection data;</li> <li>Review of enforcement actions taken, including official warnings, notices to comply, infringements and direct prosecutions; and</li> <li>Volume of complaints.</li> </ul>  |
| Existing legislation which might be used instead. | In preparing the proposed General Local Law 2024 care was taken to ensure that no clauses are included that relate to matters addressed under existing State or Federal legislation.   |
| Overlap with existing legislation.                | It is believed that the proposed General Local Law 2024 supplements State legislation without duplicating, overlapping or creating an inconsistencies.   |
| Overlap with Planning Scheme.                     | The proposed General Local Law 2024 does not overlap with the South Gippsland Shire Planning Scheme.   |
| Risk assessment.                                  | <p>Council does not believe there are any risks associated with the proposed General Local Law 2024.</p> <p>In reaching of this view, Council considered the absence of such a local law and the lack of controls Council would have over its assets and the environment, as a consequence.</p>  |
| Legislative approach adopted.                     | <p>The proposed General Local Law 2024 seeks to place the minimum imposition on the community. This is evidenced by:</p> <ul style="list-style-type: none"> <li>Reasonable penalties; and</li> <li>Minimum possible number of provisions creating offences.</li> </ul> <p>Council has also, as far as possible, adopted a performance-based, rather than prescriptive, approach in the proposed General Local Law 2024.</p>  |
| Offences and penalties.                           | <p>All offences created under the proposed General Local Law 2024 attract varying maximum penalties, ranging from one penalty unit to 20 penalty units with varying infringement penalties prescribed in Schedule 1 as being approximately one quarter of the maximum penalty for an offence.</p> <p>Council has compared the general level of penalties provided for in the proposed Local Law with the Local Laws of other like and neighbouring councils.</p> <p>Council is satisfied that penalties are similar in nature and amount to like and neighbouring councils and are sufficient to act as a deterrent for most offences while also reflecting the seriousness of those offences.</p> |



| Issue                           | Evaluation  |
|---------------------------------|---|
| Permits.                        | Clause 62 of the proposed General Local Law 2024 was amended to provide a consistent approach to Council permits. The new clause was redrafted to combine and streamline how permits may be applied for, granted, refused, amended or cancelled.  |
| Fees.                           | <p>The proposed General Local Law 2024 provides for Council to determine the fees and charges that will apply at any time.</p> <p>These fees and charges are set through the Council's Council Plan and Budget processes and are subject to separate community consultation.</p> <p>In some instances, the methodology for fee calculation will be outlined in a Guideline document (e.g. the Footpath Trading Code).</p>   |
| Restriction of competition.     | The proposed General Local Law 2024 has been reviewed against National Competition Policy principles and is considered to be consistent with these.   |
| Charter of Human Rights.        | <p>The implications of the proposed General Local Law 2024 have been assessed by Council as compatible with the requirements of the <i>Charter of Human Rights and Responsibilities Act 2006</i>.</p> <p>To the extent that any provisions engage rights, the limitations imposed are demonstrably justifiable, such that no incompatibility arises.</p>  |
| Gender impact assessments.      | The proposed General Local Law 2024 has been considered with regard to the requirements of the <i>Gender Equality Act 2020</i> . A primary objective of the proposed General Local Law 2024 is to provide a safe and healthy environment in which the residents of the municipal district enjoy a quality of life that meets the general expectations of the community. This document will have a positive impact on the local municipality irrespective of gender, religion, age, disability or cultural identity. |
| Comparison with other Councils. | In drafting the proposed General Local Law 2024, Council examined Local Laws from a number of like and neighbouring councils to assess similarities and differences and ensure a reasonable degree of consistency in content, approach and penalties.   |
| Consultation.                   | The proposed General Local Law 2024 has been developed in consultation with the community, Councillors, Council staff and Council's external legal advisors.  |
| Submissions.                    | Public consultation will be undertaken as part of the process of making the proposed local law and anyone interested in making a submission may do so, in accordance with section 73 of the <i>Local Government Act 2020</i> .  |

For further information on the proposed General Local Law 2024, please contact South Gippsland Shire Council on (03) 5662 9200 or at [council@southgippsland.vic.gov.au](mailto:council@southgippsland.vic.gov.au)